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**FACSIMILE COVER SHEET**

To: Examiner Calvin Lee

Technology Center 2800

Facsimile Number: 571-273-8300

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Transmission Date: September 2, 2005

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Liu, *et al.*

Docket No.: TSM03-0649

Serial No: 10/775,290

Art Unit: 2818

Date Filed: February 10, 2004


Title: Spacer for a Split Gate Flash Memory Cell and a Memory Cell Employing the Same

**CERTIFICATION OF FACSIMILE TRANSMISSION**

I hereby certify that the following papers are being transmitted by facsimile to the U.S. Patent and Trademark Office at 571-273-8300 on the date shown above:

- Certification of Facsimile Transmission (1 page)
- Election (4 pages)
- Amendment (18 pages)

Respectfully submitted,

  
Judy A. Betts  
Legal Assistant

**Confirmation Respectfully Requested**

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

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|-------------|--|-------------|------------|
| Applicants: | Liu, <i>et al.</i>   | Docket No.: | TSM03-0649 |
| Serial No.: | 10/775,290   | Art Unit:   | 2818       |
| Filed:      | 2/10/2004  | Examiner:   | Calvin Lee |
| Title:      | Spacer for a Split Gate Flash Memory Cell and a Memory Cell Employing the Same |             |            |

Mail Stop Amendment  
Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

**ELECTION**

Dear Sir:

In response to the Restriction Requirement dated August 3, 2005, and in light of the Amendment to claims 6 and 26 submitted herewith, Applicants hereby traverse the Restriction Requirement in part and elect certain claims for further prosecution.

Examiner identified four alleged patentably distinct species: Group A device claims 1-5, 21-25, and 41-25 relating to a composite (or coupling) spacer; Group B method claims 6-10, 26-30, and 46-50 relating to a method of forming a composite (or coupling) spacer; Group C device claims relating to a flash memory cell; and Group D method claims relating to a method of forming a flash memory cell.

Examiner has asserted that "The composite spacer in Group A can be made in many different methods comprising the method in Group B." Group B claims 6 and 26 have now been

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amended, however. Claims 1 and 6 are shown for comparison below, in which only the differences in claim 6 have been underlined:

|   |   |
|---|---|
| A composite spacer for use with a split gate flash memory cell on a substrate, comprising:  | A <u>method of forming</u> a composite spacer for use with a split gate flash memory cell on a substrate, comprising:   |
| a first spacer insulating layer having a first deposition distribution that varies as a function of a location of said split gate flash memory cell on said substrate;  | <u>providing</u> a first spacer insulating layer having a first deposition distribution that varies as a function of a location of said split gate flash memory cell on said substrate;   |
| a second spacer insulating layer overlying said first spacer insulating layer and having a second distribution that varies in substantial opposition to said first deposition distribution of said first spacer insulating layer as a function of said location of said split gate flash memory cell on said substrate. | <u>providing</u> a second spacer insulating layer over[lying] said first spacer insulating layer and having a second <u>deposition</u> distribution that varies in substantial opposition to said first <u>deposition</u> distribution of said first spacer insulating layer as a function of said location of said split gate flash memory cell on said substrate. |

As Examiner will note, the only substantive difference between claims 1 and 6 is that claim 6 includes the verb of “providing” for both claim elements (i.e., the first spacer insulating layer and the second spacer insulating layer). Applicants respectfully submit that there is no alternative method of forming the spacer in claim 1 other than to “provide” a first spacer insulating layer and to “provide” a second spacer insulating layer. Clearly in order to have a structure with a first spacer insulating layer and a second spacer insulating, one must “provide” the two respective layers. Equally, any product resulting from a process of providing a first spacer insulating layer and a second spacer insulating layer will have the first and second spacer insulating layers in the process. Hence, device claims 1 and 6 are not patentably distinct species.

Claims 21 and 26 and claims 41 and 46 are equally co-extensive in scope. Claim 26 is a method that recites “providing” each analogous element of device claim 21. Likewise, claim 41

recites a conductive layer that extends between a floating gate and a substrate insulating, and claim 46 recites "forming" the conductive layer that extends between a floating gate and a substrate insulating layer.

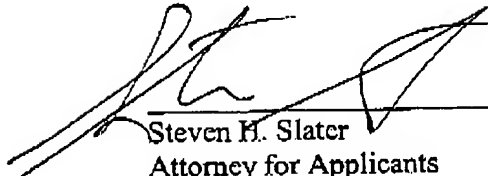
For the above reasons, Applicants respectfully traverse the restriction between Group A claims and Group B claims.

With regard to the Group C device claims, Applicants respectfully respond that Group A, and in particular claim 1 is generic to the claims of Group C. As Examiner has noted in comparing Group A and Group D, "The spacer in Group A does not include a floating gate insulating layer over floating gate." Examiner's statement appears to be a concession that Group D is a species of generic Group A.

• In light of the above, Applicants provisionally elect Group A, claims 1-5, 21-25, and 41-45 for further prosecution. Applicants respectfully request that the restriction of Group B claims 6-10, 26-30, and 46-50 be withdrawn, however, and that these claims also be substantively examined. Further, Applicants reserve the right to re-enter Group C claims 11-15, 31-35, and 51-55 in the event that claim 1 is found allowable, as claim 1 is generic to Group C.

Respectfully submitted,

September 2, 2005

  
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**AMENDMENT**

Dear Sir:

In response to the Restriction Requirement dated August 3, 2005, and prior to consideration of Applicants' Election, Applicants request entry of the following amendment.

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